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argument

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

19 Cr. 725 (JPO)

5 LEV PARNAS,

6 Defendant.

7 -----x

8 December 17, 2019
9 12:30 p.m.

10 Before:

11 HON. J. PAUL OETKEN

12 District Judge

13
14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the
17 Southern District of New York

18 BY: REBEKAH A. DONALESKI

19 NICOLAS T. ROOS

20 DOUGLAS S. ZOLKIND

21 Assistant United States Attorneys

22 LAW OFFICES OF JOSEPH A. BONDY

23 Attorneys for Defendant

24 BY: JOSEPH A. BONDY

25 STEPHANIE SCHUMAN

ALSO PRESENT: DENNIS KHILKEVICH, Pretrial Services Officer

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1 (Case called)

2 THE DEPUTY CLERK: Starting with the government,
3 counsel please state your name for the record.

4 MS. DONALESKI: Good afternoon, your Honor. Rebekah
5 Donaleski, Nicholas Roos, and Doug Zolkind for the government.

6 THE COURT: Good afternoon.

7 MR. BONDY: Good afternoon, your Honor. Joseph A.
8 Bondy on behalf of Lev Parnas. I am joined today at counsel
9 table by attorney Stephanie Schuman.

10 THE COURT: Good afternoon.

11 We are here for a bail review hearing. The defendant
12 was released on a \$1 million bond, secured by \$200,000 in cash,
13 subject to conditions including the condition of home detention
14 with electronic monitoring.

15 These conditions were agreed upon by the defendant and
16 the government following Mr. Parnas' arrest. On December 4th,
17 counsel for Mr. Parnas filed a letter requesting modification
18 of defendant's bail conditions as initially raised in the
19 December 2nd conference, seeking to be allowed to leave his
20 home between 8:00 and 5:00 each day, and the government
21 responded on December 11th raising a number of issues and at
22 that time moving for revocation of the defendant's bail.
23 Mr. Bondy submitted a letter in reply yesterday, December 16th.

24 So, I think I will start with the government, because
25 the government is moving for revocation of bail and I think I

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1 essentially need to decide that and the issues raised around
2 that before addressing whether there will be any loosening of
3 the home detection condition.

4 So, Ms. Donaleski?

5 MS. DONALESKI: Thank you, your Honor.

6 Your Honor, our application is about risk of flight
7 and Mr. Parnas poses an extraordinary risk of flight. Just to
8 set the stage before I proceed with my argument, your Honor,
9 Mr. Parnas posed an extreme risk of flight at the time of his
10 arrest and initial presentment in EDVA. The government was
11 aware of many of the factors that I will go through in my
12 argument today and which we raise in our briefing -- his ties
13 abroad, his lack of connection to the United States, his access
14 to limitless funding. Because of that, this was a close call
15 and the government negotiated the most restrictive and onerous
16 bail package possible. We negotiated a bail package that we
17 believed would ensure Mr. Parnas' appearance because it would
18 bankrupt his family if he fled, and the reason that we reached
19 that agreement was we assumed that we were proceeding in good
20 faith and that defense counsel was accurately and truthfully
21 representing Mr. Parnas' assets in the fact that he didn't have
22 another pot of money hidden away that the government didn't
23 know about that he could use to ensure his flight.

24 Now we know that the representations that were made to
25 us and to pretrial were totally false.

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1 Given the extreme risk of flight that he posed at the
2 time of his arrest and presentment on October 10th, and knowing
3 now that he has misled Pretrial Services and lied to Pretrial
4 Services and the government about his assets and about the
5 Court's directions, that's extremely troubling and it shows
6 that he poses an unacceptable risk of flight and should be
7 detained.

8 Your Honor, I would like to proceed this afternoon by
9 first outlining briefly the risk of flight that he poses
10 because I believe under 3148, that is what the Court is
11 directed to consider, and then I will also speak to his lies
12 and misstatements to Pretrial and the government which forms
13 the basis of the revocation hearing.

14 So, first, I would like to address the risk of flight.
15 There are very few defendants that pose as much of a risk of
16 flight as Mr. Parnas does. I would like to give five separate
17 reasons.

18 So, first he has reported and unreported connections
19 to the highest levels of government to the Ukraine. He
20 traveled internationally on an almost monthly basis in this
21 year alone. He has access to private jets, to extreme foreign
22 wealth that would enable him to flee the country. He traveled
23 to Ukraine almost monthly in 2019. And so, the idea that it is
24 dangerous there and that he would not be welcomed with open
25 arms when he arrived in Ukraine is just simply not credible.

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1 THE COURT: Well, I assume maybe the idea of
2 dangerousness in Ukraine might be of recent vintage based on
3 statements made about possibly cooperating with the House
4 impeachment inquiry. I am just guessing. We will hear from
5 Mr. Bondy about that.

6 MS. DONALESKI: Yes, your Honor; and I would like to
7 point out that that leads into a second point that I will make
8 in that there are people who, in Ukraine, abroad, that do not
9 want Mr. Parnas sitting here in New York so their interests and
10 Mr. Parnas' interests are aligned in ensuring that he does not
11 appear. And I will also note that the only person who is
12 saying that there are threats in the Ukraine is Mr. Parnas and
13 we have seen no independent evidence of that. We believe that
14 it is simply something he is saying to the Court in order to
15 stay out of jail today.

16 So, I mentioned the interests of foreigners who would
17 be benefited by Mr. Parnas not being present for Court. He has
18 a foreign benefactor who will pay for his travel and who has
19 paid for his travel this year. Much of his private travel in
20 the fall of 2019 was paid for by the same Ukrainian oligarch
21 that is fighting extradition to this country and for whom
22 Mr. Parnas is working.

23 THE COURT: Is that Mr. Firtash?

24 MS. DONALESKI: Yes, your Honor.

25 Second, Mr. Parnas has powerful incentives to plea.

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1 He faces a maximum of 30 years' imprisonment. The government's
2 evidence is overwhelming and the Second Circuit has held that
3 that alone provides a significant impetus to flee.

4 Third, Parnas is charged with crimes involving fraud,
5 deception, and foreign influence on a grand scale. The crimes
6 with which he is charged show that Parnas has no compunction
7 about lying to the government, lying to the public about the
8 true source of his funds when it suits him.

9 Fourth, GPS monitoring cannot mitigate the extreme
10 risk of flight that Parnas poses. Simply put, defendants flee
11 all of the time. We have cited a number of examples from the
12 last few years alone in this district. Parnas could cut off
13 his bracelet and go to the airport and be gone before we could
14 do anything about it. Simply because pretrial would receive a
15 notification that he had tampered with his bracelet does not
16 mean that pretrial or the government could stop him from
17 fleeing. And, indeed, if pretrial received a notification that
18 Parnas had cut off his bracelet they would go to his house,
19 they wouldn't go to the airport or anywhere else that Parnas
20 actually was.

21 Fifth, Parnas' lies and misstatements to Pretrial
22 Services and the government, which have only recently come to
23 light, show how little respect Parnas has for the process and
24 the Court and any efforts to place restrictions on him so I
25 would like to turn to that now, your Honor.

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1 What we have seen over the last two months is a
2 pattern, a pattern of misleading the government, a pattern of
3 misleading the Court and Pretrial Services, of walking just up
4 to the line so that he has an excuse if he is caught and I
5 expect that's what we will hear a lot of today. But what this
6 is is an effort to ensure that Parnas is released on the terms
7 that suit him and that he is only disclosing what he wants to
8 disclose in a way that benefits him. He is self-interested and
9 he has shown that he will only act in his self-interest and not
10 according to the Court's directions.

11 So, first, Parnas misled his pretrial services
12 officer, Officer Samson in Florida, about the conditions of his
13 release. I know your Honor has spoken with Officer Samson and
14 we have outlined in our papers what officer Samson's
15 understanding was. I expect that Parnas' counsel will say
16 well, it was all just a misunderstanding. What is troubling is
17 that this misunderstanding was so diametrically opposed to what
18 the Court had ordered at the conference, which was simply that
19 Parnas' counsel was to solicit the views of Pretrial Services,
20 and yet Pretrial Services in Florida was left with the clear
21 understanding that the Court had already ordered this
22 modification.

23 It is troubling for several reasons. Number one, the
24 way that Parnas misled his officer was, had the effect of
25 making it more easy for Parnas to flee. The officer understood

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1 that the Court had already ordered that Parnas could be out of
2 the house during the day. Your Honor, it takes time to arrange
3 flight, especially it takes time when your travel documents
4 have been surrendered, when you need to ensure that your family
5 can flee with you. We believe that Parnas was possibly setting
6 the stage for his flight. He is trying to get out of the house
7 for several hours a day when pretrial didn't know where he was
8 to enable him to flee. This strongly suggests that he
9 continues to pose an extreme risk of flight and that he has no
10 issue with lying to pretrial and misleading pretrial in order
11 to enable him to do that.

12 Second, he has a pattern of misleading Pretrial
13 Services and the government about his assets and there are four
14 significant omissions and lies regarding his income that I
15 would like to speak to now.

16 So, first, Parnas lied about his income from the law
17 firm. So, Parnas, as we mentioned in our papers, submitted as
18 part of his bail conditions, an affidavit under penalty of
19 perjury to the government. I can hand that up to your Honor if
20 you would like to see it.

21 THE COURT: Yes, please.

22 What was the date of the affidavit?

23 MS. DONALESKI: The date of the affidavit is October
24 29th. It was submitted to the government on October 30th.

25 Your Honor, there are three significant omissions from

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1 that affidavit. Number one, Parnas doesn't disclose his
2 employment with the law firm -- at all. Number two, Parnas
3 doesn't disclose the cash accounts held in the name of his
4 wife, which I will get to in a moment and which we believe to
5 be Parnas' assets, his purchase of a \$4.5 million home which I
6 will also get to in a moment, and the loan or income of
7 \$1 million that his wife received in September of 2019.

8 Now, when defense counsel submitted this affidavit to
9 the government on October 30th, defense counsel noted in a
10 cover e-mail that Parnas still needed access to certain
11 information in the government's possession. Your Honor, this
12 is a ridiculous attempt to shield Mr. Parnas from criminal
13 liability for submitting a materially false statement for two
14 reasons. First, the information that Mr. Parnas omitted was
15 not known to the government and was not in the government's
16 possession. People, of course, know who they work for.
17 Mr. Parnas intentionally omitted the fact that he worked for
18 this law firm and we know that he did that because he had
19 previously told the Pretrial Services officer in Virginia on
20 October 17th that he worked for the law firm. So, he
21 intentionally misrepresented and omitted that information from
22 the government's affidavit.

23 THE COURT: But I mean a lot of this stuff -- and I
24 will get to the assets of his wife -- but, for example, it says
25 employment information. Your employer, if it was a one-time

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1 contract employment for a few weeks three months ago, would you
2 put that down? Or, would you interpret that as my current
3 employer? I mean, there is a lot of interpretational issues
4 that I assume Mr. Bondy is going to get up and respond to.

5 MS. DONALESKI: A couple responses to that, your
6 Honor.

7 First, at the time he submitted that affidavit he was
8 still receiving income from the law firm. Second, what he has
9 said in the press is that he was working for the law firm to
10 represent Mr. Firtash. There is no evidence that he wasn't
11 employed by the law firm and, in fact, he said the opposite --
12 that he was working for the law firm and being paid by the law
13 firm. They are his employer. He is receiving income from
14 them. There is to reason why he would disclose that
15 information to pretrial but then completely omit it from the
16 sworn affidavit he submitted to the government. That just
17 doesn't make sense.

18 I would like to also talk about the cash assets which
19 gets into his arguments about the fact that they're all in his
20 wife's name so they're not actually his assets.

21 So, that doesn't touch the argument that we are making
22 which is that he disclosed vastly different sums to Pretrial
23 Services and the government about his cash assets. And the
24 questions from pretrial and the government in that affidavit
25 are simple. What assets do you have? They're aimed at trying

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1 to find out what money is available to you if you are going to
2 flee, what money is available to you if you are going to try
3 and satisfy a bond. That's what the government is trying to
4 get at, that's what pretrial is trying to get at. And
5 Mr. Parnas and his wife are married, they live together, she is
6 unemployed, she has no separate assets aside from Mr. Parnas.
7 It is not as if she has a trust fund. The only money that she
8 has comes from Mr. Parnas.

9 Mr. Parnas' lawyer told the government on October 17th
10 in an e-mail that the total cash assets for the Parnas family
11 included the three accounts that we have noted in our letter.
12 Number one, a SunTrust account in Mrs. Parnas' name that had
13 approximately \$450,000; number two, a student account which had
14 approximately \$50; and number three, a checking account for a
15 business to which Mr. Parnas was a signatory that had about
16 \$2,000. He sent screenshots of each of these accounts and I
17 can hand up that e-mail to your Honor if you would like to see.

18 THE COURT: Please.

19 MS. DONALESKI: Your Honor, what that e-mail shows is
20 simply the sums in each of the accounts. So, in an effort to
21 cause the government to reduce the amount of cash or property
22 that we were requiring him to post and that he had agreed to
23 post, his lawyer represented to the government that all the
24 money or property that they have is set in these three bank
25 accounts, it is about half a million dollars, less than half

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1 a million dollars. Based on that representation and that
2 information, we consented to a modification of his bond to
3 allow him to post \$200,000. You will see in the e-mail that
4 his counsel said they need the remaining money to live off of
5 which is why we didn't require Mr. Parnas to post every cent he
6 owned. So, the government consented to a modification of the
7 bond based on counsel's representation that they didn't have
8 any other funds and I can provide that e-mail to the Court.

9 So, on October 17th, defense counsel provided us with
10 the sums in the account and later that evening the government
11 responded and said that while we were still concerned about the
12 lack of assets, we would consent to a modification of the bond.

13 THE COURT: In this e-mail correspondence from October
14 17th, was the detailed account information provided to the
15 government reflecting the \$1 million loan from a foreign
16 source?

17 MS. DONALESKI: It was not, your Honor, and I provided
18 the attachments to your Honor which simply show a snapshot.
19 They simply show the amount that was in the account.

20 THE COURT: As of that date.

21 MS. DONALESKI: As of, presumably, whenever
22 Mrs. Parnas printed off the snapshots.

23 So, the government had already consented based on that
24 information. The following morning, on October 18th, defense
25 counsel provided to the government slightly more information

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1 which I understand Mr. Bondy has provided to the Court in
2 advance of today's hearing. However, I would like to make a
3 couple points about that.

4 First, the information that defense counsel provided
5 did not provide any information about the source of the funds
6 either incoming or outgoing.

7 THE COURT: But, on October 18th, Mr. Parnas' counsel
8 did provide the more detailed bank accounts reflecting the
9 \$1 million wire transfer.

10 MS. DONALESKI: He did, after the government had
11 already consented. And, your Honor, when we saw those account
12 records, we couldn't see any other detail; we just saw fed wire
13 \$200,000 in, \$200,000 out.

14 THE COURT: But you saw \$1 million; \$200,000 five
15 times over the course of a few days in September.

16 MS. DONALESKI: More than a few days, but yes, that is
17 exactly right, your Honor, and what we did with that
18 information was we immediately subpoenaed that bank account
19 information. We found it to be suspicious but we didn't think
20 that that, standing on its own, was enough to go back to the
21 Court and revoke our consent to the bail package so what we did
22 was investigate it for ourselves and then provide Mr. Parnas an
23 opportunity in the financial affidavit, which he submitted
24 about a week later, to explain that information, to explain
25 whether that money was income, what he was doing with the

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1 money. And what he did was not disclose any of it. He didn't
2 disclose the law firm income, he didn't disclose the fact that
3 he had bought a house, and he didn't disclose the \$1 million
4 loan.

5 THE COURT: Wouldn't it have then been apparent to the
6 government on the date of the affidavit, October 29th, that he
7 was not including his wife's financial information because he
8 didn't include the \$1 million that you knew about?

9 MS. DONALESKI: Your Honor, we didn't know the details
10 of the \$1 million and I will get to that in a moment. We saw
11 that the financial affidavit was facially incomplete and it
12 appeared to be materially false so we investigated it.

13 THE COURT: Right, but on October 29th you saw the
14 discrepancy.

15 MS. DONALESKI: That's correct, your Honor, but we
16 didn't have the bank records. We didn't actually have any
17 information about where the money had come from or gone to, and
18 the reason that we should have investigated and did investigate
19 is there could have been some innocent explanation for that
20 money and why Mr. Parnas didn't include it. That's not the
21 case, we have now learned, and our investigation coincided the
22 timing with Mr. Parnas' bail application. We only recently
23 received the records from SunTrust and we only recently learned
24 that the true source of the \$1 million was Firtash's lawyer.

25 THE COURT: Firtash's lawyer.

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1 MS. DONALESKI: Exactly. The man for whom Parnas was
2 working sent \$1 million -- the lawyer for the man for whom
3 Parnas was working sent \$1 million to his wife in September of
4 2019. So, the assertion that that money was just an arm's
5 length friend-to-friend transaction between Firtash's lawyer
6 and Parnas' wife is not credible. Number one, it is an
7 unsecured, undocumented loan to a housewife with no assets.
8 That makes no sense, your Honor. And second, there is press
9 reports that Parnas had bragged that he was the highest paid
10 translator. I have the articles, I am happy to hand it up to
11 your Honor, but Mr. Parnas bragged that the money was his and
12 spent the money as if it were his.

13 So, if you look at how Parnas and Svetlana spent the
14 money, they bought a house. Your Honor, on September 9 of 2019
15 Svetlana Parnas signed an agreement to purchase a house for
16 \$4.5 million cash. She put \$200,000 down in September of 2019
17 using some of the money they received from Firtash's lawyer and
18 their closing date was scheduled to be October 4th.

19 THE COURT: Now the information about the house was
20 also disclosed to Pretrial Services, wasn't it?

21 MS. DONALESKI: No.

22 THE COURT: I thought it was disclosed to the Virginia
23 Pretrial Services.

24 MS. DONALESKI: That they had purchased a \$4.5 million
25 house?

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1 THE COURT: Or that they were purchasing a house. Is
2 that not true?

3 MS. DONALESKI: He disclosed that he is unsure if he
4 and his wife will be closing on the home in Boca Raton,
5 Florida.

6 THE COURT: Right. So, they disclosed that they were
7 buying a house.

8 MS. DONALESKI: They disclosed that they were unsure
9 of whether they were buying a house but, again, that wasn't on
10 the financial affidavit that he submitted to the government.

11 THE COURT: Okay.

12 MS. DONALESKI: So he should have either disclosed on
13 that financial affidavit the \$200,000 he had in escrow or the
14 fact that they were buying this \$4.5 million house. It also
15 bears the question of if Parnas and his wife believed that they
16 were going to be able to come up with \$4.5 million cash in
17 October 2019, where the rest of that money was going to come
18 from and whether that money is still available to them but
19 unknown to the government.

20 THE COURT: Do you know the status of the house
21 purchase?

22 MS. DONALESKI: We learned last night that it was sold
23 to another party and the \$200,000 remains in escrow.

24 I will also note, your Honor, that Parnas regularly
25 papered-over money that he received into his account as loans.

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1 In the government's experience in this case and in
2 investigating other cases involving Russian and Eastern
3 European money, it is common for money to be transferred into
4 the United States but papered over as a loan for two reasons.
5 Number one, loan income is not taxable; and second, it evades
6 scrutiny from banks because if it is a loan it appears to be
7 more legitimate and we know that Parnas, in the past, based on
8 our investigation, has received funds from overseas that appear
9 to be papered over as loans that he never repaid and he spent
10 as if they were his own personal income.

11 THE COURT: Okay. But just to be clear on the house,
12 the Pretrial Services officer in Virginia where he was arrested
13 wrote on October 15th the defendant advised that he and his
14 wife had signed a contract for a home in Boca Raton two to
15 three weeks ago and closing is scheduled for October 31st.
16 However, he does not recall the address of the property or the
17 price.

18 MS. DONALESKI: Your Honor, yes; this was not known to
19 the government. His counsel represented to the government that
20 they had no other property and that's why they couldn't post
21 \$1 million, and then on his financial affidavit on October
22 29th, which was before the closing date, he didn't disclose any
23 of this.

24 Given the materiality of these misrepresentations in
25 what was already a close case, Parnas knew that any additional

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1 funds that the government learned of, any access to foreign
2 funding such as the loan from Firtash's lawyer to his wife,
3 their purchase of the \$4.5 million home, these are things that
4 would have been material to the government in determining
5 whether Parnas was even bailable. And the fact that he
6 specifically omitted these things from his financial affidavit
7 is troubling and indicates that it was intentional.

8 THE COURT: But what on the financial affidavit would
9 technically call for disclosure of a future closing on a home
10 or of \$200,000 in escrow toward a home? That's not your asset
11 anymore is it?

12 MS. DONALESKI: Your Honor, I think that -- I don't
13 know that that's the case. He has \$200,000. It is asking for
14 any assets or any accounts. He has \$200,000 sitting in an
15 escrow account and he signed a contract to purchase a home. He
16 also didn't disclose his income from the law firm and he didn't
17 disclose the loan and it specifically asked for any obligations
18 that he had.

19 THE COURT: Have you learned anything else about the
20 loan that you are in a position to share?

21 MS. DONALESKI: Sorry, one moment?

22 (Counsel conferring)

23 MS. DONALESKI: A couple points that I have made and I
24 think it will just drive home about the loan.

25 So, first, the idea that it was a loan to his wife is

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1 not credible given who made the loan, when it was made, and the
2 context in which it was made; the statements that Parnas made
3 about the money and what he did with the money after he
4 received it; the fact that they are continuing to represent it
5 as, oh, it is a loan to Svetlana, I think is troubling.

6 Second, he didn't disclose the loan to the extent it
7 was income, which is how they treated it. He should have
8 disclosed it to pretrial and the government. To the extent it
9 was a loan, he was obligated to disclose that and he didn't.
10 And I think what is interesting about that money in particular
11 is it shows the access to foreign funding that he has and
12 particularly funding associated with his foreign benefactor.
13 So, I think the fact that even now, in connection with this
14 bail application Mr. Parnas didn't disclose the true source of
15 the funds, I think, shows a pattern. It shows that he is
16 continuing to at step, after step, after step, trying to only
17 disclose enough not to get himself into further trouble but
18 give him an excuse about why he shouldn't be held responsible
19 for his actions and his misstatements.

20 That is the main point that we want to make, your
21 Honor, is Parnas posed an extreme risk of flight from day one
22 and continues to pose that risk of flight and his actions in
23 the last two months, this pattern of misleading the Court,
24 pattern of misleading pretrial, pattern of misleading the
25 government, it shows that the Court should have no faith in

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1 Mr. Parnas. It shows that Mr. Parnas is acting only in his own
2 interest, is not amenable to supervision, and it shows that
3 there are no conditions that would assure his appearance and
4 his compliance with the Court's directives.

5 So, unless your Honor has any other questions, I am
6 happy to answer them.

7 THE COURT: Okay. Thank you.

8 I will hear from Mr. Bondy.

9 MR. BONDY: Thank you very much, your Honor.

10 I start out by noting that Mr. Parnas won a green card
11 lottery for his family from the Soviet Union when he was 4
12 years old and he came here with his family and he went to
13 school in Brooklyn, we went to PS 303 in Brooklyn. Talk about
14 ties, deeper ties to the community from 5th to 9th grade. He
15 then attended Lincoln high school in Brooklyn, your Honor. He
16 has no family in Ukraine. His mother is here, his sister is
17 here, he is happily married, he has five children that are
18 still either in the home -- his oldest son is in law school.
19 They are 1-year-old, 6 years old, 12 years old, 17, 20 -- the
20 law student -- and he has a 26-year-old full grown daughter as
21 well. All of his ties are to the United States of America and
22 he is a proud citizen of the United States of America, and he
23 has been for many, many years.

24 I started this process on the 2nd of December by
25 asking you if you would consider granting Mr. Parnas a couple

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1 hours out of the house so that he could walk with his family,
2 exercise a little bit, perhaps have a meal with his wife, and
3 have some semblance of normalcy while fighting this case in the
4 Southern District of New York. I made that request and the
5 Court properly invited me to seek the position of the Pretrial
6 Services office. I contacted, on the 4th of December -- let me
7 back up.

8 When we left, your Honor, in the presence of
9 Mr. MacMahon and I, we had Mr. Parnas call Officer Samson to
10 apprise him of the fact that we would be calling to seek his
11 position on whether he would oppose or not oppose, at that
12 point, the meager two hours out of the house every day that we
13 had asked for. And Mr. Parnas did that and he informed his
14 Pretrial Services officer that he was done with court, he would
15 be returning home, and his lawyers would be speaking with him
16 about the possibility of him getting out of the house a couple
17 hours. It was nothing deceptive or misleading about that
18 communication with Mr. Samson whatsoever.

19 I note that along the way, up until the time that we
20 got to December 2nd, Mr. Parnas has at all times come to his
21 court proceedings. He has visited with counsel in New York
22 repeatedly. He has not violated a single term of his pretrial
23 supervision which he takes very seriously.

24 During the course of that multi-month period or
25 three-month period at this point, he has traveled to and from

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1 New York through a variety of international airports. He has
2 traveled back to Florida through a variety of international
3 airports. He has been, at all times, near the same cluster of
4 boats and airplanes and airports that the government knew of
5 when this bail was issued. Not once has he ever tried to flee.
6 That's not what he wants to do. He is very interested and he
7 has been very vocal about standing up and speaking out and
8 telling the truth.

9 The government notes in their first footnote in their
10 pleading from December 11th that, as the Court is aware, at the
11 time he was leaving the country he received a Congressional
12 document and had refused to cooperate with the subpoena. We
13 changed that entire course. Mr. Parnas very much wanted to
14 cooperate with that subpoena and we apprised the House
15 Intelligence Committee by letter, my letter dated October 30th
16 and delivered to them on November 2nd, that we were withdrawing
17 his prior counsel's objection to the subpoena and intended
18 fully to comply.

19 As the Court knows, there has been a little problem in
20 compliance because the documents that constitute item 11 in the
21 House Intelligence committee's rider are all of the documents
22 seized from him by federal law enforcement. And so, we have
23 had to try to gather things that we can that in his possession
24 and custody and control and turn them over to Congressional
25 investigators. Some of that's been photographic, some of it

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argument

1 has been video, some of it has been e-mail, some of it has been
2 fruits of his trips to Ukraine which were almost always either
3 with Mr. Giuliani or on behalf of the law firm of Victoria
4 Toensing and Joseph diGenova.

5 In any event, the change in circumstances since the
6 time of his arrest and bail, it has been his vocal willingness
7 to stand up and to tell the truth and to do everything that he
8 can to get that material to the House and at this point to
9 Congress. Indeed, we have even asked the government to just
10 turn over his devices. We have no objection, with everything
11 they have seized, going to get Congress. And the reason it is
12 so important to us -- it makes perfect sense to the lawyers in
13 the room, maybe not so much to others -- before Mr. Parnas
14 could be properly evaluated as a witness in that proceeding it
15 was important that we got documents to the committee. Our
16 inability to do that has, on some level, thwarted and hampered
17 our ability to have him properly evaluated as a witness.
18 Nonetheless, if he was trying to go anywhere it would be to
19 Washington, D.C., to speak to Congress.

20 THE COURT: So have you produced some documents? Or
21 not?

22 MR. BONDY: Yes, we have, your Honor. We have
23 produced the things that we can that are in our possession,
24 custody, and control.

25 THE COURT: So, the government said at the December 2

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argument

1 hearing that one of the problems with the delay is that they're
2 password protected.

3 MR. BONDY: Yes. Yes. I mean, the problem with that
4 is it is unique but we have the government here and then we
5 have this Congressional inquiry. And we can assure you that
6 our interest in speaking truth is not just limited to Congress.
7 But, I don't control the ability for somebody to be called as a
8 witness and I don't control the ability for people to want to
9 hear from Mr. Parnas. I do, though, have to deal with the
10 interest of his Fifth Amendment concerns here; the ability to
11 get information to a Congressional body that may be able to
12 actually immunize him in a way that would be beneficial to him
13 and I am trying very hard to navigate those two agencies, if
14 you will.

15 THE COURT: Understood. Why don't you get to the good
16 stuff --

17 MR. BONDY: Yes. You got it.

18 THE COURT: -- which is how you explain these
19 discrepancies as discussed by the government.

20 MR. BONDY: Well, I had sent to the Court some
21 documents that I thought were probably better that we looked at
22 a little bit internally and they constitute, we will start with
23 the SunTrust banking records.

24 The government sent Mr. MacMahon an e-mail on the 17th
25 of October. They have tendered that e-mail to the Court in

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argument

1 which they state that they've run this proposal up our chain
2 and are still concerned about the lack of assets to secure
3 bond. We would be willing to consent to the following
4 modification -- this is Ms. Donaleski's words -- provide two
5 months of bank records for Svetlana Parnas' account at SunTrust
6 account prior to release. She identifies screen shots that
7 Mr. MacMahon sent to her apparently later that day, but does
8 concede the fact that these SunTrust records were tendered to
9 her colleagues in Virginia and presumably the Court had access,
10 and pretrial as well, the following day before there was any
11 kind of determination as to a combination of factors or a bail
12 package that might reasonably secure Mr. Parnas' appearance.

13 Into the SunTrust account it is seen that there are
14 transactions. There are five \$200,000 transactions that go
15 into that account in September. No one was trying to hide that
16 from the government in any respect. No one from the government
17 apparently asked. If they had asked, they would have been told
18 that it was never hidden. And the point is this: Income or a
19 loan or whatever it was, these were monies that went into that
20 account that the government wanted to see before they agreed to
21 release, that they then had access to and look at, and then
22 they agreed upon his release.

23 THE COURT: So there are five \$200,000 incoming wires?

24 MR. BONDY: Yes.

25 THE COURT: There is no information about the wires

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argument

1 other than the date; September 3rd was two of them; September
2 10th was one of them; September 13th was one of them; and
3 September 23rd is one of them but there is no information on
4 the source, it is just a wire transfer.

5 MR. BONDY: There is not but the government certainly
6 could have asked and taken it into account at the time that
7 they were agreeing upon the bail package and if they had asked
8 it would have been told. It was right in front of them that
9 information. Every one of these transactions was in front of
10 them. The escrow deposit that was made on a home was two
11 \$100,000 debits from the account that same month. Mr. Parnas
12 did identify the fact that there was a home that the family was
13 purchasing. Mr. Parnas, as the signator on the contract of the
14 home, the monies are currently in escrow and will not be
15 released absent some kind of a Court order or amicable
16 settlement because they were viewed to be a hard money deposit
17 and the Parnas' defaulted on their ability to close on that
18 property. He is not trying to buy a \$4.5 million home, he is
19 not trying to continue that transaction, it has been abandoned
20 and the state of the money is currently unreleasable. It could
21 be released. I don't know that they would get a quantum of it
22 back. My understanding, with real estate deals that go awry
23 with a hard money deposit, is the seller usually keeps, if not
24 all the money, then virtually all the money. But, certainly
25 that was in the bank records, that was disclosed to the

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argument

1 government, it was told to the Pretrial Services office. There
2 was no attempt to deceive whatsoever. There was no attempt to
3 minimize his assets whatsoever.

4 During the course of ferreting out the information on
5 this loan so that I could be prepared to stand up and respond
6 to it today, your Honor, I learned that, indeed, there was a
7 loan and there is an e-mail chain that is pretty clear about
8 this from this gentleman to Ms. Parnas. And it seems to be it
9 is a loosely-papered loan, that's for sure, and it seems to be
10 one that is entered into with relatively favorable terms and
11 not much documentation, but I don't pretend to understand how
12 the very wealthy decide things and do things. What we do have
13 here is a record of conversations between this attorney, a
14 Swiss national -- not a Ukrainian person, not a Russian person.

15 THE COURT: Can you say who it is?

16 MR. BONDY: Yes, Ralph Oswald Isenegger. And, indeed
17 he writes to Ms. Parnas on the 3rd of September that it was
18 really nice to see her and she has a beautiful family and he
19 will provide her a loan for maximum of five years. He didn't
20 need a collateral guaranty but it was a five-year period at 5
21 percent annually meaning \$50,000 year in interest. She thanked
22 and acknowledged and the tranches of the loans then followed.

23 When I tried to dial down on this and get additional
24 information and I communicated with Mr. Isenegger, the next
25 thing that he did was write a letter to Ms. Parnas essentially

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argument

1 pulling the loan because all of the bad press her husband has
2 received and asking if she was in position to now return the
3 loan. And so, as to that source of financing that the
4 government points to, it is dried up, it's gone, it's blown
5 away.

6 To the extent they want to argue that Dmitry Firtash
7 is some kind of a benefactor all from the Ukraine, I note that
8 over the past couple of months with Mr. Parnas taking the
9 position that he has taken, it is one contrary to the interests
10 not only of Mr. Firtash but also people representing him and a
11 number of people around him. I believe he has burned that
12 bridge to the extent that there ever was a bridge in terms of
13 getting any money.

14 THE COURT: When you say it is dried up, there is a
15 request to return it or they haven't returned it? Or are you
16 saying they have?

17 MS. DONALESKI: Well, it was yesterday evening when I
18 got this request and the thing is I then submitted to the Court
19 a more recent set of SunTrust bank records, we have the
20 November statements, and that demonstrates that the Parnas'
21 financial position has diminished dramatically September. They
22 have I think \$94,000 as of the end of November.

23 So, I have not yet spoken to the family about what
24 they want to do with the loan. It is not part of my mandate
25 for today.

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argument

1 THE COURT: But isn't that suspicious that they got a
2 \$1 million loan and now it is down to \$94,000? I know you are
3 an expensive lawyer but you are not that expensive.

4 MR. BONDY: But his bail was \$200,000. It has to be
5 posted by Ms. Parnas, and was, out that account. There was
6 escrow payment for a home for \$200,000, right? There was a
7 variety of other payments for back payments that were due and
8 owed, and now there is \$100,000 remaining. So, when you start
9 to break down the numbers you have payment for the security of
10 the defendant in a significant federal matter. You have some
11 legal fees which are really not the corpus of that. You have
12 payments for the real estate property and you have every
13 transaction that is laid out in his bank accounts that was
14 available to the government and has always been available to
15 the government. It is only now when we, in response to the
16 government's motion for remand, ask for additional
17 documentation of a loan that we have this notification that the
18 loan will now be pulled and there is a request for return of
19 funds.

20 But, if anything, those monies that the claims are
21 available to flee are just not there. It is not true. It is
22 not true. And, everything in this banking record was known to
23 the government.

24 I note that there is an October 23rd Pretrial Services
25 report from the Southern District of New York that was prepared

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argument

1 before we saw your Honor and in that document there is
2 reference to an income of about
3 four-thousand-one-hundred-some-odd dollars a month which
4 represents funds from a law firm, plus about \$2,500 from this
5 company Global Energy Producers which is this energy company
6 that he and Mr. Fruman were hopeful to start. That figure
7 represents \$50,000, the four-thousand-one-hundred-some-odd a
8 month that Mr. Parnas was still due from the law firm at that
9 time. There was a payment he was yet to receive. It was
10 income that he expected to receive that he disclosed and then
11 it got broken up by pretrial into some kind of monthly
12 allowance but it was a \$50,000 payment.

13 When we filed our financial document with
14 Ms. Donaleski I was very clear because the government had
15 seized all of his materials. His co-defendant, Mr. Correia,
16 did a lot of his secretarial work he can't speak to outside of
17 the presence of counsel and he was not in a position to put
18 together many of the things were requested by the government.

19 Furthermore, and I will say that I had written to
20 Ms. Donaleski in my e-mail which was dated October 30th early
21 in the morning -- this case has kept us up, I think -- at 1:26
22 a.m. indicated: *Please see Mr. Parnas' financial statement and*
23 *attachments below. He requires additional information that is*
24 *in the government's possession and from his accountant to*
25 *complete the statement accurately on questions that include his*

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argument

1 *business, self-employment income, judgments, and matters*
2 *pending. Please do not hesitate to contact either Ed or I with*
3 *any questions.*

4 That was on the 30th early in the morning. I am not
5 sure and the government may not know, however, I can hand up a
6 letter from Mr. and Mrs. Parnas' accounting firm dated October
7 30th in which the firm fires the Parnases.

8 So, since that time Mr. Parnas has undertaken to
9 engage a new accountant and is intent upon gathering correct
10 information not only for these purposes but for purposes of his
11 tax liabilities and for attempt to go resolve those issues
12 also.

13 I can understand how, given the nature of this case
14 and Mr. Parnas being in the public eye and the accounting firm
15 would not want to have him as a client anymore, but there was
16 nothing that Mr. Parnas filed in that financial statement that
17 was false. To the extent that things were incomplete we
18 explained why they were incomplete. We would be more than
19 happy to supplement and complete that record to the extent that
20 we can.

21 THE COURT: Well, let's start with specifics.

22 MR. BONDY: Yes.

23 THE COURT: Law firm employment. Where it says
24 employment information, it is blank.

25 MR. BONDY: Right. That's correct. Because part of

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argument

1 the proceeds that Mr. Parnas received from the law firm do not
2 represent income. Part of that was to be shared with
3 Mr. Correia; another part, that represents things that would be
4 deducted and those were things that I, in terms of putting down
5 a number and saying that's income, under penalties of perjury,
6 did not seek to be accurate or true. It seemed that if I could
7 not answer something accurately under penalty of perjury that
8 we needed to explain to the government that we couldn't make an
9 accurate calculation and the reasons why. But, that's not
10 Mr. Parnas trying to defraud anybody. That's not Mr. Parnas
11 trying to lie. And, it is not him trying to mislead.

12 THE COURT: But he was employed by this law firm, no?

13 MR. BONDY: He had a four-month contract, that's
14 correct. He was paid \$50,000 for four months. At the
15 beginning of this case there was another payment that -- maybe
16 even two -- but, there were payments that were yet to be made.
17 Of the money that had been paid, not all of that money would
18 have been viewed as income, per se. And my only point is if
19 you are signing this financial statement and you are misstating
20 something, it is a lot worse, I believe, than telling the
21 government why you can't answer something and indicating that
22 that is indeed the case.

23 So, we have most of the monies that have been received
24 that the government is complaining of, things that were known
25 to them at the time of the original bail setting.

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argument

1 Furthermore --

2 THE COURT: Let me ask another thing about the
3 affidavit.

4 I don't quite understand that answer. There is an
5 employment information section that's blank and you just told
6 me he got \$200,000 over four months. I don't know why you
7 wouldn't put that on the form.

8 MR. BONDY: I understand that. I understand.

9 THE COURT: What about the wife, which is that this
10 \$1 million came to his wife's account under circumstances
11 which, let's be honest, suggest that it is his \$1 million. Why
12 didn't he disclose it?

13 MR. BONDY: Well, an inference or a suggestion is not
14 necessarily accurate and he didn't disclose it because it
15 doesn't ask him to disclose anything pertaining to his spouse.

16 I have what -- and I didn't really dial down on this
17 until I had to, but I had what appears to be a clear and
18 unequivocal chain of communication between the lender and
19 Mr. Parnas indicating that, indeed, this was a loan that was
20 being given to her. Even when I tried to acquire additional
21 information, what I got back was a letter he wrote to
22 Mrs. Parnas indicating, quite strenuously, that what I did know
23 was not your husband's travails but that I gave you a loan
24 under certain terms.

25 So, again, these are records that the government asked

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argument

1 for, the government had them, the government could review them,
2 and there is really, if you look at it I think as you pointed
3 out earlier, there is no independent place to put those facts
4 about your wife's assets. It is just not asked. In fact, I
5 think that when pretrial interviews you and you start saying
6 what about my wife's assets, they're more focused on your
7 assets, more focused on your income. But, there was never
8 intent to deceive on part of Mr. Parnas.

9 THE COURT: He didn't recall the amount of the house
10 that he had just bought or the address?

11 MR. BONDY: Well, I wasn't with him, that was
12 Mr. MacMahon. I don't know. But, I do know this. There was a
13 contract for a home, it has never been closed upon, it was
14 between Ms. Parnas and a seller and it is somewhere in Boca
15 Raton, I believe. Right? But I don't know how granular or
16 detailed people's memory or knowledge is about addresses. I
17 just don't. But, again, that's not evidence of an intention to
18 deceive somebody.

19 And remember, particularly when you are telling this
20 all to pretrial, you are telling this all to the government,
21 they can easily ask the follow up question, *Well, provide us*
22 *information about the house. What more about these incoming*
23 *wires? What's going on here?* Right?

24 If they're concerned about all of these things in the
25 beginning which are international travel, what access to

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argument

1 deep-pocketed foreign individuals, or money that's coming into
2 an account, I mean these are all things that no matter what
3 they say today were taken into account during the time that the
4 original bail had been set. They're all taken into account.
5 There is maybe a couple items that they cite. One is this
6 document stuff and the other is principally my communications
7 with the Pretrial Services officer in Florida to support a
8 claim that there are changed circumstances and I just don't
9 think that there are.

10 For example, I will start with just going through the
11 things in the government's pleadings here at page 3 of the
12 memo. Parnas' diverging statements to pretrial and the
13 government regarding his assets. Again, this is an example.
14 The Judge in the Eastern District of Virginia, prosecution in
15 the Eastern District of Virginia, were aware of these items.
16 The government had asked that these things be presented as a
17 precondition to Mr. Parnas' release. If they know and complain
18 that they didn't read the things that they asked for and
19 obtained as precondition to release, I just don't think that
20 that's fair to now impute to him some kind of bad conduct
21 because they didn't ask a follow-up question.

22 Then, we do have evidence in the Southern District of
23 New York just before our first appearance of him talking to
24 Pretrial Services about the monies that he was due at that
25 time, accurately, from the law firm, that he computed this

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argument

1 future income, this what do you intend to receive in the future
2 stuff. A couple days later we informed the government I can't
3 complete this because there is certain information that we need
4 and we cite to banking records, the need to speak to an
5 accountant, things that are related to his self-employment.
6 There was no attempt whatsoever to deceive.

7 And, along the way we have the government -- I should
8 say the Pretrial Services office in this district not seeking
9 remand of any sort and, indeed, identifying Mr. Parnas as
10 having been compliant with every term of his release.
11 Everything. He has not been late home. He has not tried to go
12 somewhere else. There is no evidence of him trying to engage
13 in criminal activity while out on pretrial supervision as the
14 defendants in some of the these cases that the government would
15 cite to you was doing.

16 And, the bottom line there is clearly a combination of
17 conditions that will reasonably assure Mr. Parnas' appearance
18 in Court. They have been in place. He has been flying to
19 court. He has been traveling back and forth to see his
20 lawyers. He has been defending his case. He has been taking
21 positions with respect to the Congressional subpoena. And then
22 you look to the facts of this case and the government's claim
23 about his considerable ties abroad. Well, they knew that, his
24 considerable ties abroad at the time of the setting of the
25 original bail. They knew about his seemingly limitless access

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argument

1 to foreign funds, this benefactor relationship with Mr. Firtash
2 at the time of the original bail. They knew about these
3 alleged powerful incentives to flee at the time of the original
4 bail. They knew that they were investigating other criminal
5 charges at the time of the setting of the original bail.

6 All of these things were put into the calculus and
7 then they decided to enter into an amended downward bond
8 quantity with Mr. MacMahon and it was, indeed, as he couched.
9 There was no deception about this so that Ms. Parnas and her
10 three small children will have some means to live while
11 Mr. Parnas is enduring dealing with this federal prosecution.

12 THE COURT: I thought I understood that the agreement
13 to go down to \$200,000 was perhaps a day before they actually
14 got the bank records showing the \$1 million loan.

15 Is that right?

16 MR. BONDY: Well, yes. Here. Again, Ms. Donaleski,
17 on the 17th, requested of Mr. MacMahon that he provide two
18 months of bank records. And this is prior to release. So,
19 they asked for the two months of bank records prior to release.
20 The following day, as we have been told by the government in
21 Court, those records were produced. That, again, they show the
22 records; they're produced. Mr. MacMahon, in his e-mail back to
23 Ms. Donaleski, indicates that here are the bank statements I am
24 told constitute the current cash accounts possessed by the
25 Parnases. Remember, he also submits a couple bank account

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argument

1 records from a Chase account or something that is not
2 Ms. Parnas'. Mr. MacMahon identified that day that there was
3 also approximately \$30,000 in cash that had been seized as part
4 of the search of the residence. This is partially Ms. Parnas'
5 mother who is living in the residence, an older woman; a little
6 bit of it was also Ms. Parnas. That money has been sequestered
7 and now returned. And Mr. MacMahon proposes that the Parnases
8 place \$200,000 in cash, in immediately available funds with the
9 clerk in Virginia, as part of a revised bond package.

10 THE COURT: And that's Ms. Donaleski's e-mail.

11 MR. BONDY: This is Mr. MacMahon back to Ms. Donaleski
12 after she -- yes, on the 17th of October.

13 THE COURT: Right. So, they didn't get the record
14 showing the \$1 million loan until the 18th so she had already
15 agreed to the \$200,000.

16 MR. BONDY: Yes, but the 18th is when he is released
17 in court. That is a precondition. I mean, it is not that hard
18 if they get the record and there is something they don't like
19 about it to say wait a second, Judge, we have some other kind
20 of questions here. It is routine. It is very simple.

21 But, importantly, Mr. MacMahon indicated that he
22 offers the \$200,000, as Mr. Parnas is raising three young
23 children in Florida and the family will need cash to live on as
24 well as pay their travel and legal expenses occasioned by this
25 case. And so, he asks, if we can reach an agreement we can

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argument

1 present an agreed order to Judge Nachmanoff and get Mr. Parnas
2 to Pretrial Services to arrange the monitoring to get to New
3 York next Wednesday for the arraignment and he hopes that is
4 acceptable.

5 This is there has been nothing but disclosure here,
6 your Honor. There was disclosure that there was going to be at
7 least a couple hundred thousand dollars set aside for the
8 purpose of the family attempting to live while Mr. Parnas was
9 not in a position to be working and, for that matter, even
10 leaving his home. So, again, all of these are things that are
11 known to the government at the time.

12 Again, they cite on page 6, they talk about this
13 nearly limitless means and this Ukrainian oligarch, but I
14 believe it is pretty clear right now as we stand here in
15 December that Mr. Parnas has absolutely no continuing
16 relationship with Mr. Firtash. Mr. Firtash has no interest in
17 having a relationship with Mr. Parnas. Mr. Parnas has
18 completely burned those bridges by stating his willingness to
19 comply with his subpoena and, indeed, attempting to do so.

20 The law firm that he was working for was a law firm
21 that was employed by Mr. Firtash and those lawyers, too, have
22 absolutely no incentive to assist Mr. Parnas, ever engage him
23 for any purposes again, or even speak to him, for that matter.
24 And, he has done that at great risk to himself and certainly at
25 great risk to having any of these continuing relationships and,

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argument

1 I submit, he did the right thing.

2 Again, these powerful incentives to flee. Mr. Parnas
3 knew he was under investigation for additional crimes, as did
4 the government, as did the Court, everybody did at the time of
5 his original arraignment when he was pulled off a flight with
6 his one-way ticket and, in part, at least because he failed to
7 comply with the Congressional subpoena he is now complying
8 with. If anything, he has a powerful incentive now to stay and
9 not to flee and, frankly, I don't think he ever had a powerful
10 incentive to flee and that's why these conditions were arrived
11 at, because he was deemed to not be a serious risk of flight.

12 I would like to take a moment to talk about his
13 misleading Pretrial Services thing simply because it's
14 upsetting to me.

15 I, very explicitly, spoke with Officer Samson and I
16 told him that I was in court on the 2nd and I asked for
17 Mr. Parnas' ability to go out for a couple hours a day. I told
18 him the government opposes this. I asked him his position. We
19 had a lengthy discussion in which he told me that Mr. Parnas
20 was compliant with every term of his release; that pretrial, of
21 course, works for the Court and not either party, and that he
22 was comfortable with a day time curfew from 8:00 a.m. to 5:00
23 p.m. And this is not so that he can be thrown out of his home
24 every day for that period of time, but rather so that he would
25 have the discretion to leave his home, if he wanted to, during

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argument

1 that time frame, so that he could do things, the same types of
2 things I had asked before, your Honor -- just to be able to get
3 out an exercise and have some sun and be with his family.

4 I am the one driving these requests but once I heard
5 Officer Samson's position, which included the statement to me
6 that when Mr. Parnas is stopped at a traffic light or taking a
7 turn, he knows where he is. And Mr. Samson is saying to me
8 that when he is driving down the highway, they even know how
9 fast he is going because that was the nature of the GPS device
10 that Mr. Parnas is wearing that pings every 30 seconds. Those
11 are his words to me, his examples to me about the leash that
12 Mr. Parnas is on. And, it goes further. When he gets up and
13 goes to the bathroom, one can say Pretrial knows when he is
14 moving. Every movement of his is tracked. If the bracelet was
15 tampered with in any respects it would immediately go off.

16 I don't know what Pretrial would try to do but
17 Mr. Samson told me specifically that had it been tampered with,
18 if it was tampered with, it would immediately go off and he
19 would know that immediately. I don't know whether it is on an
20 app, I don't know if it is 24/7 in his phone, I don't know, but
21 that was what he said to me.

22 I told him that we would be willing to limit travel
23 away from slips, boat slips, and docks, and airports because it
24 was Ms. Donaleski's concern that she raised to you on December
25 2nd when she was concerned about him being able to slip onto a

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argument

1 boat or get onto a plane. And I happily said we are more
2 than -- we are contented to not go near any of those
3 transportation hubs.

4 THE COURT: I think it was Mr. Zolkind, not
5 Ms. Donaleski.

6 MR. BONDY: Okay. It was the government and whomever
7 from the government was arguing, that was the argument that was
8 being made, and in an attempt to address that with Officer
9 Samson we gave that up.

10 I then incorporated what he said to me in the letter
11 that I wrote to the Court including the italicized phrase, *the*
12 *government opposes this application in all respects.*

13 Within an hour of my ECF filing I sent a copy of what
14 I had filed to Officer Samson so that he could see what I wrote
15 and so that he had it. Next thing I know on this issue is I am
16 flying to a professional conference in Las Vegas and I get
17 these calls from the government, and when I respond they ask me
18 if I have told this Officer Samson: *It is all okay, the*
19 *parties have agreed to this, don't worry, we are going to work*
20 *it out.* Which is ridiculous.

21 They want to talk about me making a ridiculous
22 argument? I am terribly sorry, that's ridiculous.

23 I sent him the correspondence showing what I had
24 filed. When I spoke to him on the 11th he told me it was a
25 misunderstanding. We had a discussion back and forth. I

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argument

1 reminded him of the e-mail I had sent him a week earlier. I
2 believe he opened it then. But when I sent it, he responded
3 and said got it by e-mail. "Got it."

4 So, there was not any attempt, whatsoever, to mislead
5 Officer Samson.

6 THE COURT: Look. I'm not going to rely on that but I
7 will say for the record that I did speak with the Pretrial
8 Services Officer Mr. Samson on the 13th of December, just to
9 get his recollection, and his recollection was, as the
10 government has said, that you gave him the impression that the
11 Court -- I -- had ordered the parties to try to reach an
12 agreement as opposed to my having ordered the parties to simply
13 get pretrial service's position. The reason I am not relying
14 on that is he doesn't blame anything on your client,
15 Mr. Parnas. He thought that you were spinning it in a
16 particular way but none of this was on the record, this was a
17 game of telephone. So, maybe you put an aspirational spin on
18 what I was contemplating in terms of that but, in fact, I did
19 not say anything about likely granting your request. He was
20 left with that impression, maybe it was his mistake. It
21 doesn't matter.

22 You do need to be careful when relaying what the Court
23 has said but I can't pinpoint where the breakdown was so I am
24 not going to put a lot of emphasis on that.

25 MR. BONDY: I understand all of that and I can assure

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1 the Court, as an Officer of the Court, that I was careful, and
2 I was not so aspirational. I might have been closer to wet
3 towel but I was just trying to get that answer.

4 Needless to say, it was nothing in those
5 communications between Mr. Parnas and Mr. Samson that would
6 amplify or constitute some kind of a new circumstance to allow
7 the government to go back into this bail hearing and retrench
8 the old. It does not make him a risk of flight, it just
9 doesn't.

10 THE COURT: Okay.

11 I am going to take a brief break but I would like to
12 see if the government would like to reply to anything you said.

13 Were you done? Or no?

14 MR. BONDY: I wasn't done but if you would like me to
15 stop I could stop. I had a couple more points that I thought
16 might be important.

17 THE COURT: You can go through them briefly.

18 MR. BONDY: Okay.

19 Just in terms of distinguishing these cases here, at
20 page 7 they are citing *U.S. v. Bartok*, affirming revocation of
21 bail based upon a magnitude of omissions in an affidavit that
22 was probably willful and I don't think we have that magnitude
23 of omissions here.

24 In terms of nature and circumstances, again, these are
25 things all known to the government, your Honor. This is a

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argument

1 straightforward fraud case, there is no mandatory minimum,
2 there are guidelines in this case that would be calculated far
3 below the 30 years. Mr. Parnas' conduct in his attempts to
4 provide truthful information and to be one of those people,
5 unlike certain people, even in government, who want to comply
6 with their subpoena, is something that I think would go a long
7 way towards trying to make a mitigating argument at his
8 sentencing -- if there is to be a sentencing -- if there is
9 ever a conviction. But, he has very powerful incentives to
10 stay here, face these charges and, if he loses, to make every
11 argument available to him in mitigation of his sentence whether
12 it is under 5K2.0 of the Sentencing Guidelines or 18 U.S. Code
13 3553(a), the binding sentencing statute that requires a Judge
14 to impose a sentence sufficient but no greater than necessary.

15 The government goes on to cite a litany of cases about
16 people who have cut off their bracelets and run off to
17 different countries. I do not know whether these defendants
18 had the same ties to the United States that Mr. Parnas does
19 coming here on a lottery, on a green card lottery; staying here
20 and being a proud American citizen and having six children in
21 the U.S.; having his wife in the United States as well. I
22 don't know if people who are cutting the bracelet and fleeing
23 to the Dominican Republic have those types of ties to this
24 jurisdiction but Mr. Parnas certainly does.

25 Also, at *U.S. v Porter*, the government cites a Judge

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argument

1 Sifton Eastern District case from 2017 supporting the defendant
2 being detained in supervised release context after he has been
3 convicted and is not presumed innocent -- as Mr. Parnas is --
4 because of his failure to abide by conditions of release that
5 include defying any orders with which he does not agree. These
6 cases are inapposite. This is not Mr. Parnas, your Honor.

7 And then, finally, they cite *Berkun*, again. They
8 close with *Berkun* where a defendant's concealment of millions
9 of dollars in assets and his commission of a crime while on
10 bail warrant his being detained. And, again, I think that
11 these cases are easily distinguishable from the circumstance at
12 bar.

13 And so, at the end, I renew my request because I think
14 it is fair that the Court grant Mr. Parnas some limited ability
15 to be outside of his home during the pendency of his case. I
16 know that we have seen Mr. Fruman on page 6 of the newspapers
17 at a baseball game with his children and wife during
18 Thanksgiving. The risk of flight, right? But, I would ask
19 that he be allowed to have some humane opportunity simply to be
20 outside. He is not a risk of flight, he is certainly not a
21 serious risk of flight. Nothing the government has said here
22 today has changed that calculus.

23 If the Court has any questions, I would be happy to
24 answer them.

25 THE COURT: I think you have. Thank you.

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argument

1 MR. BONDY: Thank you, your Honor.

2 THE COURT: Did you want to add anything?

3 MS. DONALESKI: Yes, your Honor. I just want to
4 correct a couple of misstatements of the record that I think
5 are pretty important.

6 So, there is no question that Parnas materially misled
7 the government both on October 17th, October 18th, and October
8 30th, about his finances. There is no question that he didn't
9 disclose his income from the law firm. As your Honor pointed
10 out, he knew that he had earned that income. It is not as if
11 the form asked for whether his accountant uses it as income,
12 the question is what did you earn. He just told the Court that
13 he earned \$50,000 a month for four months. He didn't disclose
14 that, that's a material omission.

15 Second, under Florida law, whether or not an account
16 or a house is held in his wife's name, it's his asset. The
17 form calls for Mr. Parnas to disclose real property, to
18 disclose bank accounts. There is no question that he did not
19 disclose to the government the fact that he had entered into a
20 contract or his wife had entered into a contract to purchase
21 real property.

22 There is no question that he didn't disclose to the
23 government the fact that they owed Firtash's lawyer a million
24 dollars. The suggestion that the government was aware of this
25 incoming money and therefore has waived any opportunity to

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argument

1 challenge it is just ludicrous. The government investigated
2 it, was told one thing by Parnas' counsel which turned out to
3 be false. And, the government has now brought it to the
4 Court's attention.

5 So, given all of this, there is no reason for the
6 Court to trust anything that Mr. Parnas is saying about his
7 assets now.

8 THE COURT: What are you referring to when you just
9 said, *was told one thing by counsel that turned out to be*
10 *false.*

11 MS. DONALESKI: The government was told by defense
12 counsel that the screenshots represented the Parnas' entire
13 cash assets and they had no other real property or cash to
14 post. That was not accurate. And then, when they submitted
15 the financial affidavit, it materially omitted his income from
16 the law firm, the loan from Firtash's lawyer, and the real
17 property that they had purchased.

18 THE COURT: They didn't own it yet.

19 MS. DONALESKI: Your Honor, it doesn't specify that.
20 It asks for real property so they should have either disclosed
21 the property that they had purchased or were about to purchase
22 or the \$200,000 that they had in escrow.

23 THE COURT: And where would they have disclosed the
24 loan? Is there something for obligations?

25 MS. DONALESKI: Yes.

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1 THE COURT: That's assuming that he had a duty to
2 disclose a loan in the name of his wife.

3 MS. DONALESKI: Which, your Honor, for the reasons we
4 have argued, was in fact income to him, but yes. That's under
5 assets and liabilities.

6 And, your Honor, I think even now the government isn't
7 clear on Mr. Parnas' finances and the statements to the Court
8 that he has made today about how he only has \$90,000, your
9 Honor, Mr. Parnas is unemployed and we have learned from his
10 pretrial officer that he has hired armed security to take his
11 children to school, to accompany him to court, to guard his
12 house. Who is paying for that? We still have serious
13 questions about where Mr. Parnas is getting this money and
14 whether or not this amount of bond is sufficient to deter him
15 from fleeing and we submit that it is not. Mr. Parnas' lies to
16 the government show that he is not being fully forthcoming.

17 And I just want to address Bondy's suggest suggestion
18 that because the government didn't call him on that, call him
19 on the false statements at the time, that it means that we
20 signed off on it or have waived any opportunity to challenge
21 it. He is obligated to be truthful. He is obligated to be
22 truthful with pretrial, to be truthful when he is submitting a
23 sworn affidavit. It is Mr. Parnas' obligation to comply with
24 pretrial, to be honest with pretrial and he hasn't done that,
25 your Honor. It is not the government's obligation to

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argument

1 cross-examine him at every instance. It is his obligation to
2 be truthful and his lack of truthfulness, his lack of candor,
3 shows that he is not taking this seriously and he is unlikely
4 to comply with the terms of release in the future. And just
5 because he thinks it is in his interest to come to court today
6 doesn't mean that he is not going to reach the opposite
7 decision if and when there is a superseding indictment or if
8 and when he is convicted.

9 THE COURT: Thank you.

10 MR. BONDY: Your Honor, I forgot to note with respect
11 to the threats, there is a gentleman whose name is Igor
12 Kolomoisky, and he is parentally what one might call an
13 oligarch, from Ukraine.

14 Mr. Giuliani, several months back, treated about
15 Mr. Kolomoisky having threaten Mr. Fruman and Mr. Parnas, from
16 Ukraine. And there is media reportage about Mr. Kolomoisky
17 saying that Mr. Parnas was going to see his wife day or
18 something like that.

19 Mr. Parnas had actually gone so far as to file a
20 criminal complaint, a case against Mr. Kolomoisky in Ukraine
21 and has not returned -- because he can't return anyway now --
22 to try to further that issue. But, there is palpable recorded
23 evidence of there being threats from this person whom, as I
24 understand it, controls a number of people and has a reputation
25 for some form of violence in the Ukraine, number one.

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1 And then, number two, Mr. Parnas pointed out to me
2 that he was released on the 21st, not the 18th, just to kind of
3 get the continuance straight.

4 My final point is I don't know about Florida law but I
5 don't know if Mr. Parnas was aware of that either and I haven't
6 seen that statute. So, for all the reasons that we stated, I
7 ask that you allow him to remain on bail and give him a little
8 time out.

9 THE COURT: What is the timing of the complaint he
10 filed in Ukraine, if you know? Was it a few years ago or last
11 few months?

12 MR. BONDY: May of 2019, your Honor. Recently. And
13 then there is a Tweet from Mayor Giuliani sometime around that
14 period as well and the Tweet is something to the effect of Igor
15 Kolomoisky, exiled in Israel comes back to Ukraine and the
16 first thing he does is threaten two American citizens --
17 referring to Mr. Parnas and co-defendant Fruman.

18 THE COURT: Thanks. I'm going to take a five-minute
19 recess.

20 (recess)

21 THE COURT: I have considered the parties' submissions
22 and arguments here today. The question before me really is
23 whether there is a set of conditions that will assure the
24 presence of the defendant in light of all the circumstances or
25 whether the risk of flight is so great that even the

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argument

1 restrictive conditions that have been imposed in the case are
2 not adequate to guard against risk of flight. It is relevant
3 that the government did agree to the \$1 million bond that was
4 secured by \$200,000 in cash in October and that provides
5 somewhat of a baseline. It is not as if the government waives
6 any argument, technically, for anything other than what has
7 changed since that time. However, given that the government
8 agreed to it at that time there is a sense in which fairness
9 and justice support the idea that I should be focused on what's
10 different now versus the situation that existed at time the
11 government agreed to the bail conditions which are as
12 restrictive as they exist.

13 The government points to several factors and they are
14 concerning. They are focused in terms of what's different than
15 October, they're focused on the financial situation and alleged
16 misstatements by Mr. Parnas about his financial condition. I'm
17 not going to focus on the issues of connections overseas, the
18 frequency of flights, the fact that he had a benefactor in
19 Mr. Firtash, etc., because those were all issues that were
20 present earlier and continue to be present. But, with respect
21 to the alleged misstatements, when you focus on them, I find
22 that they're not obvious misstatements. There is explanations
23 that don't necessarily excuse the answers that were given or
24 the information that was given by Mr. Parnas, but there is no
25 clear, direct misstatement, for example, with respect to law

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argument

1 firm employment. The fact that he wouldn't put down under
2 employment that you have an employer for a four-month stint
3 doesn't necessarily mean there is a misstatement in a situation
4 where you have disclosed separately that there is money coming
5 from this law firm. Admittedly, the description of the money
6 is somewhat confused but that happens over time; this is based
7 on the information the defendant had at the time without access
8 to paper records or electronic records.

9 With respect to the financial status and assets of his
10 wife, again, there is nothing that clearly indicates that he
11 had a duty to disclose his wife's assets. There is certainly
12 lots of suspicious information here about the fact that this
13 was, as a practical matter and in reality, Mr. Parnas' money as
14 opposed to his wife's, even though there was allegedly a loan
15 to the wife but I don't know that that's a clear and
16 intentional misstatement such that bail should be revoked at
17 this point.

18 In addition, the fact is that the government, on
19 October 17th, required two months of bank statements from the
20 defendant's wife, clearly tipped off to the idea that this
21 might be happening, and when it got the information the next
22 day, \$1 million in wire transfers was disclosed to the
23 government; five separate \$200,000 wiretap payments, the
24 government totally reasonably says we are going to look into
25 that we are going to investigate that. But, the delta between

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argument

1 having a \$1 million wire coming in and knowing that it was from
2 a foreign source, I don't know that that makes the difference
3 between the conditions that have been set and detention.

4 Similarly, with respect to the house, that was
5 disclosed to the Pretrial Services officer; not the amount of
6 the payment but fact that the defendant was in the process of
7 purchasing a house.

8 So, with respect to all of these things, there was
9 information provided. It might have violated the spirit of
10 what was requested and the spirit of what should have been
11 provided in terms of showing the defendant's real financial
12 picture, but I don't know that it rises to the level,
13 especially with respect to what is different now, as opposed to
14 October, to intentional misstatements warranting the revocation
15 of bail. And I say all of this against the backdrop of the
16 idea that bail is for the purpose, at least here, of assuring
17 the defendant's appearance. He hasn't been convicted, he is
18 presumed innocent, as we all know. This is not a case under
19 these statutes where there is a presumption that he will flee
20 or presumption that he is a danger to the community. He is
21 somebody who has young children, he has complied with all of
22 the conditions including reporting frequently to his Pretrial
23 Services officer in Florida.

24 Considering all of these factors -- and I'm not
25 denigrating any of the arguments made by the government, I

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argument

1 think it is a reasonable application that the government has
2 made, but -- I do think that the strict conditions that exist
3 are appropriate.

4 I am also going to deny defendant's request for
5 modification. For all the reasons I have described there is a
6 serious risk of flight but do I find that the conditions that
7 have been imposed are sufficient to assure the future
8 appearance of the defendant in the case, particularly in light
9 of the fact that he has met all of those requirements to this
10 point.

11 So, requests on both sides for modification of bail or
12 detention are denied.

13 Anything further?

14 MS. DONALESKI: Not from the government. Thank you,
15 your Honor.

16 MR. BONDY: No, your Honor. Thank you.

17 THE COURT: Thank you. We are adjourned.

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